

**STATE OF MICHIGAN
BEFORE THE MICHIGAN JUDICIAL TENURE COMMISSION**

COMPLAINT AGAINST:

Hon. Steven R. Servaas

63rd District Court
105 Maple Street
Rockford, MI 49341

Formal Complaint No. 84

COMPLAINT

The Michigan Judicial Tenure Commission (“Commission”) files this complaint against Honorable Steven R. Servaas (“Respondent”), Judge of the 63rd District Court – 1st Division, Rockford, Michigan. Respondent has moved out of the electoral division from which he was elected, in violation of the Michigan Constitution, which renders his judicial seat legally “vacant.” This action is taken pursuant to the authority of the Commission under Article 6, Section 30 of the Michigan Constitution of 1963, as amended and MCR 9.200 *et seq.* The filing of this Complaint has been authorized and directed by resolution of the Commission.

1. Respondent was elected a judge of the 63rd District Court – Division 1, in Rockford, Michigan.
2. As a judge, Respondent is subject to all the duties and responsibilities imposed on him by the Michigan Supreme Court, and is subject to the standards for discipline set forth in MCR 9.104 and MCR 9.205.

COUNT I

VACATING JUDICIAL OFFICE BY FAILING TO RESIDE IN ELECTION DIVISION OF JUDICIAL DISTRICT

3. The 63rd District Court, Kent County, is divided into two divisions. Respondent was elected to the 63rd District Court – 1st Division in Rockford, Michigan.

4. The first division of the 63rd District Court consists of the cities of Cedar Springs and Rockford, and the townships of Tyron, Solon, Nelson, Spencer, Sparta, Algoma, Courtland, Oakfield, Alpine, Cannon, Plainfield, Gratton, Casnovia Village, and Lake and Kent City and “has 1 judge.” MCL 600.8130(4)(a).

5. The 63rd District Court – 1st Division, does *not* encompass the township of Ada, which falls under the second division of the 63rd District Court.

6. Hon. Sara J. Smolenski, Chief Judge of the 63rd District Court, was elected to the 63rd District Court – 2nd Division, in Cascade Township, Michigan.

7. The second division of the 63rd District Court consists of the township of Ada, as well as the cities of E. Grand Rapids and Lowell, and the townships of Grand Rapids, Cascade, Vergennes, Lowell, Bryon, Gaines, Caledonia and Bowne, and “has 1 judge.” MCL 600.8130(4)(b).

8. Pursuant to MCL 600.8201, a judge of the district court shall be licensed to practice law in this state and shall be a registered elector *of the district and election division* in which he seeks and holds office.

9. The Michigan Constitution provides: “**Whenever a justice or judge removes his domicile beyond the limits of the territory from which he was elected or appointed, he shall have vacated his office.**” Const 1963, art. 6 §20 (emphasis supplied).

10. Respondent claims he is a registered elector within the areas defined as the 63 – 1 district court because he has registered to vote on Belding Road in Cannon Township.

11. Respondent also maintains a home at 201 Honey Creek Avenue NE in Ada Township, which is outside of the areas defined as the first division of the 63rd District Court.

12. On January 13, 2006, Respondent executed an affidavit declaring that the property he owns at 201 Honey Creek Ave NE, Ada Township, Kent County, 49301, became his principal residence on December 31, 2005, and that he rescinded the principal residence exemption he had previously claimed as his principal residence.

13. Respondent lists his driver information with the Secretary of State using the Belding address, even though he resides in Ada Township. Moreover, he uses the courthouse address as his mailing address for the Secretary of State.

14. Respondent lists his voter registration with the Cannon Township Clerk, contending that he is a qualified elector at the Belding address, even though he is actually a qualified elector at the Honey Creek address in Ada Township. Moreover, he uses the courthouse address as his mailing address for the Township Clerk’s office.

15. Respondent resides in the Ada Township home, not in the home he owns on Belding Road in Cannon Township.

16. The conduct described in paragraphs 1 – 14, if true, may constitute:

- a. Vacating or abandoning his judicial seat;

- b. Misconduct in office as defined by the Michigan Constitution of 1963, as amended, Article VI, §30 and MCR 9.205;
- c. Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, as amended, Article VI, §30, and MCR 9.205;
- d. Failure to establish, maintain, enforce and personally observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, contrary to the Michigan Code of Judicial Conduct (“MCJC”), Canon 1;
- e. Conduct involving impropriety and the appearance of impropriety, which erodes public confidence in the judiciary, in violation of MCJC, Canon 2A;
- f. Failure to respect and observe the law and to conduct oneself at all times in a manner which would enhance the public’s confidence in the integrity and impartiality of the judiciary, contrary to MCJC, Canon 2B;
- g. Allowing family, social, or other relationships to influence judicial conduct or judgment, in violation of MCJC, Canon 2C;
- h. Lack of personal responsibility for one’s own behavior and for the proper conduct and administration of the court in which one presides, contrary to MCR 9.205(A);
- i. Failing to comply with constitutional and statutory and residency requirements to hold a judicial seat;
- j. Filing a false or fraudulent affidavit claiming an exemption, or making a false statement in such an affidavit, a one-year misdemeanor. MCL 211.120(1);
- k. Committing perjury by knowingly swearing to the affidavit or false statement, a one-year misdemeanor in this case. MCL 211.120(2);
- l. Falsely reporting a change of address to the Secretary of State, a misdemeanor, MCL 257.315(4);

- m. Making a false statement regarding his residence on his application to register to vote, a misdemeanor, MCL 168.499(1);
- n. Conduct prejudicial to the administration of justice, in violation of to MCR 9.104(1);
- o. Conduct that exposes the legal profession or courts to obloquy, contempt, censure or reproach, contrary to MCR 9.104(2);
- p. Conduct contrary to justice ethics, honesty or good morals, in violation of MCR 9.104(A)(3); and
- q. Conduct that violates the standards or rules of professional responsibility adopted by the Supreme Court, contrary to MCR 9.104(4).

COUNT II

FAILURE TO COMPLY WITH STATUTORY NOTIFICATION REQUIREMENTS

17. Respondent's current driver's license improperly reflects an address on 8631 Belding Road, in Rockford, rather than his admitted primary residence in Ada, Michigan.

18. Respondent has failed to comply with the statutory requirement that he *immediately* notify the Secretary of State of his or her new residence address to change his driver's license information, pursuant to MCL 257.315(1), constituting a civil infraction. MCL 257.315(3).

19. Respondent also failed to comply with the statutory requirement that he change his voter's registration, pursuant to MCL 168.507(1), which provides:

A registered elector who has removed from 1 election precinct of a township, city, or village to another election precinct of the same township, city or village and has not recorded the removal with the local clerk shall execute a transfer of registration request, listing the new residence address over his or her signature, with the election board

in the precinct in which he or she is registered at the next ensuing primary or election. **(emphasis supplied)**

20. The conduct described in paragraphs 16 – 18, if true, may constitute:

- a. Misconduct in office as defined by the Michigan Constitution of 1963, as amended, Article VI, §30 and MCR 9.205;
- b. Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, as amended, Article VI, §30, and MCR 9.205;
- c. Failure to establish, maintain, enforce and personally observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, contrary to the Michigan Code of Judicial Conduct (“MCJC”), Canon 1;
- d. Conduct involving impropriety and the appearance of impropriety, which erodes public confidence in the judiciary, in violation of MCJC, Canon 2A;
- e. Failure to respect and observe the law and to conduct yourself at all times in a manner which would enhance the public’s confidence in the integrity and impartiality of the judiciary, contrary to MCJC, Canon 2B;
- f. Conduct prejudicial to the administration of justice, in violation of to MCR 9.104(1);
- g. Conduct that exposes the legal profession or courts to obloquy, contempt, censure or reproach, contrary to MCR 9.104(2);
- h. Conduct contrary to justice, ethics, honesty or good morals, in violation of MCR 9.104(A)(3); and
- i. Conduct that violates the standards or rules of professional responsibility adopted by the Supreme Court, contrary to MCR 9.104(4).

COUNT III

RUDE AND SEXUALLY INAPPROPRIATE COMMENTS AND CONDUCT

20. Respondent makes inappropriate comments, uses offensive language and engages in inappropriate conduct of a sexual nature directed toward female court employees, as reflected in part by the following examples.

21. Around noon on Friday, November 30, 2007, Respondent showed up at the 2nd Division of the 63rd District Court in Cascade Township for a retirement party for a court staff member. While there, he approached a group of four women, three from the 2nd division (Cascade) of the court and one from the 1st division (Rockford) of the court.

22. The Cascade staff were dressed in casual clothes, as they have “casual Fridays,” where they can dress casually if they donate to a particular charity.

23. The Rockford court staff member asked Respondent whether the staff at Rockford could also have casual Fridays.

24. Respondent responded that the staff already all dress “like slobs.”

25. Upon hearing that, one of the Cascade Township court employees looked up.

26. Respondent then asked what was written on her sweatshirt.

27. The female court employee was wearing a “Michigan sweatshirt” (blue with maize writing, and the word “Michigan” written across the front). She replied, “Go Blue!”

28. Respondent then said that with a chest like hers, she should have chosen a smaller school, like “Alma,” to wear on her shirt, because maybe then she could fill the shirt up.

29. Respondent acknowledged his wrongful conduct by remarking that he should leave before he “got into trouble” or “got sued.”

30. Respondent left a telephone message apology for that employee a few days later, on December 4, 2007, after another Cascade staff member told him he had gone too far, in which he admitted the “crude attempt at humor” and that he should not have said what he did.

31. Respondent also “doodles” pornographic scribbles on court files or on “little yellow stickies” or post-it notes he attaches to the files.

32. In one such recent instance, on August 22, 2007, Respondent drew a picture of the male sexual organ on a post-it note with the notation, “See 2nd file” and gave it to a female court employee. A copy of Respondent’s drawing is attached.

33. On other occasions, Respondent has given the female employees such notes with female breasts drawn on them.

34. The conduct described in paragraphs 20 – 33, if true, may constitute:

- a. Misconduct in office as defined by the Michigan Constitution of 1963, as amended, Article VI, §30 and MCR 9.205;
- b. Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, as amended, Article VI, §30, and MCR 9.205;
- c. Lack of personal responsibility for one’s own behavior and for the proper conduct and administration of the court in which one presides, contrary to MCR 9.205(A);
- d. Persistent failure to treat persons courteously, contrary to MCR 9.205(B)(1)(c);
- e. Treatment of a person unfairly or discourteously because of the person’s race, gender or other protected personal characteristic, contrary to MCR 9.205(B)(1)(d);
- f. Failure to personally observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, contrary to the Michigan Code of Judicial Conduct (“MCJC”), Canon 1;

- g. Failure to avoid impropriety and the appearance of impropriety in all activities and engaging in irresponsible and improper conduct, thereby eroding public confidence in the judiciary, contrary to MCJC, Canon 2A;
- h. Failure to respect and observe the law and to conduct yourself at all times in a manner which would enhance the public's confidence in the integrity and impartiality of the judiciary, as required by MCJC, Canon 2B;
- i. Failure to treat every person with courtesy and respect, without regard to race, gender, or other protected personal characteristic, as required by MCJC, Canon 2B,
- j. Allowing family, social, or other relationships to influence judicial conduct or judgment, contrary to MCJC, Canon 2C;
- k. Failure to be patient, dignified, and courteous to those with whom you deal in an official capacity, in violation of MJC, Canon 3A(3);
- l. Conduct prejudicial to the administration of justice, in violation of MCR 9.104(1);
- m. Conduct violating the Elliot-Larsen Civil Rights Act (M.C.L.A. 37.2101 *et seq.*);
- n. Creation of a hostile work environment;
- o. Conduct that exposes the legal profession or courts to obloquy, contempt, censure or reproach, contrary to MCR 9.104(2);
- p. Conduct contrary to justice ethics, honesty or good morals, in violation of MCR 9.104(A)(3); and
- q. Conduct that violates the standards or rules of professional responsibility adopted by the Supreme Court, contrary to MCR 9.104(4).

Pursuant to MCR 9.209, Respondent is advised that an original verified answer to the foregoing complaint, and nine copies thereof, must be filed with the Commission within 14

days after service upon Respondent of the Complaint. Such answer shall be in a form similar to the answer in a civil action in a circuit court and shall contain a full and fair disclosure of all the facts and circumstances pertaining to Respondent's alleged misconduct. The willful concealment, misrepresentation, or failure to file such answer and disclosure shall be additional grounds for disciplinary action under the complaint.

JUDICIAL TENURE COMMISSION
OF THE STATE OF MICHIGAN

3034 W. Grand Boulevard, Suite 8-450
Detroit, MI 48202

By: _____/s/
Paul J. Fischer (P 35454)
Examiner

_____/s/
Thomas L. Prowse (P19121)
Associate Examiner

Dated: February 14, 2008